IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8254 of 2005

Between:

P. Lingaiah S/o Maraiah
C/o APSRTC, Nalgonda Bus Depot, Nalgonda district

..... PETITIONER

AND

1 The Regional Manager,

APSRTC., Nalgonda Region, Nalgonda District
2 The Divisional Manager,

APSRTC. Nalgonda Division,

Nalgonda District
3 The Depot manager,

APSRTC., Nalgonda Bus Depot,

Nalgonda District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in issuing the proceedings No. 02/104(28)/89-NLG, dt 23-4-1990 as illegal, arbitrary and unjust and consequently set a side the proceedings No. 02/104(28)/89-NLG dated 23-4-1990 issued by the 3rd Respondent.

Counsel for the Petitioner: Mr. G.RAVI MOHAN

Counsel for the Respondents: Mr. V.T.M.PRASAD

The Court at the stage of admission made the following :

ORDER:

Questioning the penalty imposed by the 2nd respondent on the petitioner withholding annual increment for a period of one year with cumulative effect by issuing the impugned proceedings No.02/104(28)/89-NLG, dated 23-04-1990, the present Writ Petition is filed.

2. Mr.G.Ravi Mohan, the learned counsel appearing for the petitioner contended that without conducting any enquiry, major penalty has been imposed on the petitioner and therefore, the impugned proceedings are liable to be set aside.

3. On the other hand, learned standing counsel appearing for the respondents contended that the penalty was imposed in the year, 1990 and therefore, there are no grounds to interfere with the impugned proceedings.

4. For certain irregularities said to have been committed by the petitioner, a charge sheet dated 28-09-1989 was issued to him and he gave an explanation. As the explanation was not satisfactory, the disciplinary authority imposed a major penalty of deferment of annual increments for a period of one year (1), which shall have effect of postponing future increments. Imposing a major penalty without conducting regular departmental enquiry cannot be sustained under law. Admittedly, no regular departmental enquiry was conducted in this case. Though it is a matter to be remitted to the Disciplinary authority for passing appropriate orders, the learned counsel appearing for the petitioner requested this Court to modify the major penalty imposed by the 2nd respondent to that of a minor penalty. As the alleged irregularities have taken place in the year, 1990, at this point of time, it is not desirable to remit the matter to the Disciplinary Authority for conducting any regular departmental enquiry and further more, the petitioner has requested to impose a minor penalty. Therefore, the penalty can be modified in view of the peculiar facts and circumstances of the case.

5. In the result, the Writ Petition is disposed of modifying the penalty of deferment of

one annual increment for a period of one year (1), which shall have effect of postponing future increments to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs. By virtue of this order petitioner is not entitled to any monetary benefits.

_____

(K.C. BHANU,J)

13th April, 2005.

Tsy

To

1 The Regional Manager,

APSRTC., Nalgonda Region,

Nalgonda District

2 The Divisional Manager,

APSRTC. Nalgonda Division,

Nalgonda District

3 The Depot manager,

APSRTC., Nalgonda Bus Depot,

Nalgonda District

4 Two CD copies